

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DOUNYA ZAYER,

**ANSWER TO CROSS-CLAIMS**

Plaintiff, 20-CV-6070 (ARR) (PK)

-against-

Jury Trial Demanded

CITY OF NEW YORK, et al.,

Defendants.

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Defendant City of New York, by its attorney, Georgia M. Pestana, Acting Corporation Counsel of the City of New York, for its answer to the cross-claims in co-defendant D'Andraia's answer, dated March 10, 2021, respectfully:

1. Denies the allegations in paragraph "154" of co-defendant's answer.
2. Denies the allegations in paragraph "155" of co-defendant's answer.
3. Denies the allegations in paragraph "156" of co-defendant's answer.
4. Denies the allegations in paragraph "157" of co-defendant's answer.
5. Denies the allegations in paragraph "158" of co-defendant's answer.
6. Denies the allegations in paragraph "159" of co-defendant's answer.
7. Denies the allegations in paragraph "160" of co-defendant's answer.

**FIRST AFFIRMATIVE DEFENSE:**

8. The cross-claims fail to state a claim on which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE:**

9. The cross-claims are premature and not ripe for adjudication.

**THIRD AFFIRMATIVE DEFENSE:**

10. In response to the cross-claim for contribution, the liability of defendant City shall be limited to their equitable share in accordance with CPLR Article 16.

**FOURTH AFFIRMATIVE DEFENSE:**

11. The cross-claims may be barred in whole or in part by reason of cross-claimant's failure to comply with the requirements of the New York General Municipal Law, §§ 50-e, 50-h and/or 50-i.

**FIFTH AFFIRMATIVE DEFENSE:**

12. The cross-claims are barred by governmental immunity because the duties and functions of the City's officials concerning the questions of defense or indemnity under G.M.L. 50-k entail the reasonable exercise of proper and lawful discretion, and therefore, the City has governmental immunity from liability under state law.

**SIXTH AFFIRMATIVE DEFENSE:**

13. Any injury alleged to have been sustained resulted from cross-claimant's own culpable or negligent conduct or the culpable or negligent conduct of third parties, and was not the proximate result of any act of City defendants.

**WHEREFORE**, defendant City of New York requests judgment dismissing the cross-claims in their entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
March 24, 2021

GEORGIA M. PESTANA  
Acting Corporation Counsel  
of the City of New York  
*Attorney for Defendants City and Edelman*  
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/s/  
By: \_\_\_\_\_  
Erin Teresa Ryan  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: All Counsel (by ECF)